

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Eric Conway)
Ward 93, Block 510, Parcel O130) Shelby County
Tax year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$17,500	\$79,300	\$96,800	\$24,200

The property owner has filed an appeal with the State Board of Equalization (“State Board”). As indicated on the appeal form, the property in question was not appealed to the Shelby County Board of Equalization (“county board”) during its regular annual session.

The undersigned administrative judge conducted a jurisdictional hearing of this matter on December 13, 2006 in Memphis. The appellant, Eric Conway, represented himself at the hearing. John Zelinka, Esq., legal advisor to the Shelby County Assessor of Property, appeared on her behalf.

Findings of Fact and Conclusions of Law

This appeal pertains to a single-family residence located at 6380 Bent Oak Lane in Memphis. Until recently, Mr. Conway rented this house to his brother.

Like all other real property in Shelby County, the subject property was reappraised in 2005. On or about February 25 of that year, the Assessor's office sent notice of the reappraised value to the above address, which had been entered on the appellant's deed to the property for the mailing of tax bills. But Mr. Conway, most of whose mail was directed to his home address (1486 Semmes Street) at the time, did not become aware of the increased assessment until June 30, 2006 – just after the published deadline for making written complaint to the county board concerning property assessments for that tax year.¹ He immediately submitted this appeal to the State Board in an attempt to obtain relief.

The validity of an assessment change notice does not depend on whether it is actually received by the taxpayer. Rather, such a notice is deemed to be effective when it is mailed by the assessor's office to the taxpayer's "last known address." Tenn. Code Ann. section 67-5-508(a)(3).

¹Apparently, the tenant had failed to forward Mr. Conway's mail to his home address. Indeed, according to the taxpayer's testimony, it was actually a notice of a shortage in his escrow account from the mortgage company that prompted this appeal.

Generally, except in the event of insufficient notice of an increased assessment, a timely protest to the local board of equalization is a jurisdictional prerequisite for an appeal to the State Board. See Tenn. Code Ann. section 67-5-1412(b)(1) and Tenn. Atty. Gen. Op. 92-62 (October 8, 1992). However, the State Board is authorized to accept an appeal up to March 1 of the year following the tax year in dispute upon a showing of "reasonable cause" by the taxpayer. Tenn. Code Ann. section 67-5-1412(e). In the case of Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992, Final Decision and Order, August 11, 1994), the Assessment Appeals Commission proclaimed that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the "reasonable cause" provisions to waive these requirements except where the failure to meet them is due to **illness or other circumstance beyond the taxpayer's control**...[Emphasis added.]

Id. at pp. 2—3.

Since the Commission has historically adhered to this interpretation of the law, the administrative judge cannot recommend acceptance of this appeal. This conclusion is not negated by the fact that Mr. Conway barely missed the deadline for appeal to the county board. He candidly admitted his own "neglect" in not checking the mail sent to him at the address of record in the Assessor's office. As the Assessment Appeals Commission observed in another case involving revaluation of rental property, the taxpayer "must be responsible for notices sent to property he owns when he has failed to provide a different address to the assessor." James L. Vassar (Davidson County, Tax Year 2001, Final Decision and Order, August 13, 2003), p. 2.

Order

It is, therefore, ORDERED that this appeal be dismissed for lack of jurisdiction.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order";** or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 5th day of January, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Eric Conway
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office

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